

**PALMER LAKE, COLORADO**

**ORDINANCE NO. 04-2020**

**AN ORDINANCE AMENDING TITLES 8, 14, 16, AND 17 OF THE MUNICIPAL CODE, CREATING NEW CHAPTERS AND SECTIONS RELATING TO THE PROHIBITION OF ILLICIT DISCHARGE INTO THE TOWN'S MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)**

**WHEREAS**, the Board of Trustees of the Town of Palmer Lake, Colorado, pursuant to Colorado statute and the Palmer Lake Municipal Code, is vested with the authority of administering the affairs of the Town of Palmer Lake, Colorado;

**WHEREAS**, the Town of Palmer Lake is subject to MS4 permitting requirements pursuant to Regulation 61 of Colorado Code of Regulations, 5 C.C.R. 1002-61 and has submitted a permit application to the Colorado Department of Health and Environment, Water Quality Control Division; and

**WHEREAS**, the Town of Palmer Lake has taken significant steps to ensure compliance with Regulation 61, including the hiring of a qualified consultant, Chavez Consulting Inc., LLC, who has recommended the additions of the chapters and sections to the Palmer Lake Town Code, below.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE AS FOLLOWS:**

1. Title 8 of the Palmer Lake Municipal Code is amended by adding a new chapter, Chapter 8.50, to read in its entirety as follows:

**CHAPTER 8.50**

**PROHIBITION OF ILLICIT DISCHARGES TO THE STORM SEWER SYSTEM**

**8.50.010. Purpose.**

The purpose of this Ordinance is to protect the public health, safety, and welfare of the citizens and residents of the Town by detecting and eliminating, to the extent possible, illicit discharges into the Town's storm sewer system. If not eliminated, illicit discharges can result in water pollution detrimental to the health and safety of the Town's citizens and natural resources and may result in substantial sanctions imposed by the Town's Municipal Separate Storm Sewer System (MS4) Permit.

## **8.50.020. Definitions**

**Municipal separate storm sewer system:** the system of structures owned or operated by the Town designed or used for collecting or conveying stormwater, including but not limited to roads with drainage systems, inlets, catch basins, curbs, gutters, pipes, man-made channels, ditches, detention and water quality basins, or storm drains.

**Division:** The Water Quality Control Division of the Colorado Department of Public Health and Environment.

**Illicit Discharge:** any discharge to any portion or component of the municipal storm sewer system that is not composed entirely of stormwater except discharges specifically authorized by a Colorado Discharge Permit System (CDPS) or NPDES permit and discharges resulting from emergency firefighting activities. An illicit discharge also does not include water from the following sources: landscape irrigation; lawn watering; diverted stream flows; irrigation return flow; rising ground waters; uncontaminated ground water infiltration, as defined at 40 CFR 35.2005 (20); uncontaminated pumped ground water; springs; flows from riparian habitats and wetlands; water line flushing and discharges from potable water sources in accordance with the Division's Low Risk Policy Discharge Guidance: Potable Water; foundation drains; air conditioning condensation; water from crawl space pumps; footing drains; individual residential car washing; dechlorinated swimming pool discharges in accordance with the Division's Low risk Policy Discharge Guidance: Swimming Pools; water incidental to street sweeping, including associated sidewalks and medians and that is not associated with construction; dye testing in accordance with manufacturer's recommendations; stormwater runoff with incidental pollutants; agricultural stormwater runoff; or any discharge consistent with the Division's Low Risk Discharge Policy Guidance, or other Division policies and guidance documents where the Division has stated it will not pursue permit coverage or enforcement for specified point source discharges.

**Owner:** the owner of record, whether person, partnership, firm, corporation, governmental agency, or other association of persons, or any authorized agent or representative of the owner of record.

**Person:** any individual, association of individuals, partnership, firm, corporation, agency, or agent or representative thereof.

**Public or private property:** any land or real property, including but not limited to the right-of-way of any road or highway and any body of water or watercourse.

**8.50.030. Prohibited Acts.**

- A. It shall be unlawful for any person to cause an illicit discharge by knowingly, recklessly or negligently dumping or depositing any non-stormwater material directly into any portion or component of the municipal storm sewer system.
- B. It shall be unlawful for any person to knowingly, recklessly or negligently dump or deposit any non-stormwater material onto public or private property when such dumping or deposit results in an illicit discharge.
- C. It shall be unlawful for any owner to allow any non-stormwater material originating from any lot, parcel or tract of land in the Town under such owner's control, possession or ownership to enter into any portion or component of the municipal storm sewer system, thereby causing an illicit discharge.

**8.50.040. Notice of Violation.**

- A. To the extent possible, considering the nature and extent of the illicit discharge, the Town Administrator or designated Town staff shall provide verbal or written notice to persons or owners violating this Ordinance and shall work with such persons to correct violations immediately and prior to the commencement of enforcement proceedings. A person violating this Chapter shall be in violation from the time the illicit discharge is identified until it is removed.
- B. Nothing in this Chapter shall be construed to bar the commencement of criminal or civil enforcement proceedings for violations of this Ordinance as provided in Town Code without prior notice.

**8.50.050 Abatement of an Illicit Discharge**

After verbal or written notice to an owner of a violation of this Chapter and failure of said owner to cleanup or abate such violation, the Town Administrator may deem an illicit discharge a nuisance as defined by this Title. Enforcement of abatement shall be carried out pursuant to Chapters 8.04.30 through 8.04.90 of this Title.

2. Title 14 of the Palmer Lake Municipal Code is amended by amending Chapter 14.10, Section 14.10.03 – Permits, by adding a new subsection, subsection “e”, with such new subsection “e” to read in its entirety as follows:

- (e) When the total area of land disturbing activity is equal to or greater than one (1) acre in size, additional permit requirements in Chapter 17.50 shall apply to all non-routine maintenance activities as defined in Chapter 17.50.

3. Title 16 of the Palmer Lake Municipal Code is amended by amending Chapter 16.04, Section 16.04.030 by adding a new subsection, subsection “F”, with such new subsection “F” to read in its entirety as follows:

- F. Implementing the control measure requirements of, and ensuring compliance with the Town’s Municipal Separate Storm Sewer System (MS4) permit to protect water quality.

4. Title 16 of the Palmer Lake Municipal Code is amended by amending Chapter 16.08 by adding new sections, sections 16.08.210, 16.08.220, 16.08.230, and 16.08.240, with such new sections to read in their entirety as follows:

16.08.210. Applicable development sites. “Applicable development sites” are those that result in land disturbance of greater than or equal to one acre, including sites less than one acre that are part of a larger common plan of development or sale. Applicable development sites include all new development and redevelopment sites for which permanent water quality control measures were required in accordance with an MS4 permit.

16.08.220. New Development. “New development” means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision for a site that does not meet the definition of redevelopment.

16.08.230. Redevelopment. “Redevelopment” includes a site that is already substantially developed with 35% or more of existing imperviousness; with the creation or addition of impervious area (including removal and/or replacement), to include the expansion of a building footprint or addition or replacement of a structure; structural development including construction, replacement of impervious area that is not part of a routine maintenance activity; and land disturbing activities.

16.08.240. Common Plan of Development or Sale. “A common plan of development or sale” is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules, but remain related. “Contiguous” means construction activities located in close proximity to each other (i.e., within ¼ mile). Construction activities are considered to be “related” if they share the same development plan, builder or contractor, equipment, storage areas, etc.

5. Title 16 of the Palmer Lake Municipal Code is amended by amending Chapter 16.12 by adding a new section, section 16.12.020, with such new section to read in its entirety

as follows:

**16.12.020. Applicable Development Site.**

Applicable development sites, as defined in Section 16.08 shall meet the requirements of this Title and Chapter 17.50 of this Code, unless excluded below. For the purposes of requiring permanent stormwater quality control measures the following may be excluded from the requirements of an applicable development site.

- A. **“Pavement Management Sites”:** Sites, or portions of sites, for the rehabilitation, maintenance, and reconstruction of roadway pavement, which includes roadway resurfacing, mill and overlay, white topping, black topping, curb and gutter replacement, concrete panel replacement, and pothole repair. The purpose of the site must be to provide additional years of service life and optimize service and safety. The site also must be limited to the repair and replacement of pavement in a manner that does not result in an increased impervious area and the infrastructure must not substantially change. The types of sites covered under this exclusion include day-to-day maintenance activities, rehabilitation, and reconstruction of pavement. “Roadways” include roads and bridges that are improved, designed or ordinarily used for vehicular travel and contiguous areas improved, designed or ordinarily used for pedestrian or bicycle traffic, drainage for the roadway, and/or parking along the roadway. Areas primarily used for parking or access to parking are not roadways.
- B. **Excluded Roadway Redevelopment:** Redevelopment sites for existing roadways, when one of the following criteria is met:
  - 1) The site adds less than 1 acre of paved area per mile of roadway to an existing roadway, or
  - 2) The site does not add more than 8.25 feet of paved width at any location to the existing roadway.
- C. **Excluded Existing Roadway Areas:** For redevelopment sites for existing roadways, only the area of the existing roadway is excluded from the requirements of an applicable development site when the site does not increase the width by two times or more, on average, of the original roadway area. The entire site is not excluded from being considered an applicable development site for this exclusion. The area of the site that is part of the added new roadway area is still an applicable development site.
- D. **Aboveground and Underground Utilities:** Activities for installation or maintenance of underground utilities or infrastructure that does not permanently alter the terrain, ground cover, or drainage patterns from those

present prior to the construction activity. This exclusion includes, but is not limited to, activities to install, replace, or maintain utilities under roadways or other paved areas that return the surface to the same condition.

- E. Large Lot Single Family Sites: A single-family residential lot, or agricultural zoned lands, greater than or equal to 2.5 acres in size per dwelling and having a total lot impervious area of less than 10 percent. A total lot imperviousness greater than 10 percent is allowed when a study specific to the watershed and/or site shows that expected soil and vegetation conditions are suitable for infiltration/filtration of the WQCV for a typical site, and the Town accepts such study as applicable within its jurisdictional boundaries. The maximum total lot impervious covered under this exclusion shall be 20 percent.
- F. Non-Residential and Non-Commercial Infiltration Conditions: This exclusion does not apply to residential or commercial sites for buildings. This exclusion applies to applicable development sites for which post-development surface conditions do not result in concentrated stormwater flow during the 80<sup>th</sup> percentile stormwater runoff event. In addition, post-development surface conditions must not be projected to result in a surface water discharge from the 80th percentile stormwater runoff events. Specifically, the 80<sup>th</sup> percentile event must be infiltrated and not discharged as concentrated flow. For this exclusion to apply, a study specific to the site, watershed and/or site must be conducted. The study must show rainfall and soil conditions present within the permitted area; must include allowable slopes, surface conditions, and ratios of impervious area to pervious area; and the permittee must accept such study as applicable within the Town boundaries.
- G. Sites with Land Disturbance to Undeveloped Land that will Remain Undeveloped: sites may be excluded sites with land disturbance to undeveloped land (land with no human-made structures such as buildings or pavement) that will remain undeveloped after the site construction is complete.
- H. Stream Stabilization Sites: stream stabilization sites are excluded.
- I. Trails: bike and pedestrian trails may be excluded. Bike lanes for roadways are not included in this exclusion, unless attached to a roadway that qualifies under another exclusion in this section.

- J. Oil and Gas Exploration: Facilities associated with oil and gas exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations maybe considered to be an applicable construction activity, may be excluded from requiring permanent stormwater quality control measures.

6. Title 16 of the Palmer Lake Municipal Code is amended by amending Chapter 16.16, Section 16.16.020, by adding a new subsection, subsection "O", with such new subsection to read in its entirety as follows:

- O. Proposed location and type of permanent stormwater quality control facility(ies).

7. Title 16 of the Palmer Lake Municipal Code is amended by amending Chapter 16.20, Section 16.20.030, by adding a new subsection, subsection "E", with such new subsection to read in its entirety as follows:

- E. Long term operation, maintenance and access agreement is required for all permanent stormwater quality control measures and facilities. An applicable development site with multiple permanent control measures may have one or more maintenance and access agreements depending upon ownership and maintenance responsibility. The maintenance agreements shall cover all permanent stormwater quality control measures that are included in a submitted site plan, site development plan, final plat or Drainage Plan. All structures such as Extended Detention Basins and Porous Landscape Detention, plus any additional permanent nonstructural control measures such as Grass Swales & Buffers that are used as part of "Minimizing Directly Connected Impervious Areas" (MDCIA), shall be included in the maintenance agreement.

When submitting a permanent stormwater control measure maintenance agreement for review and recordation by the Town, the agreement shall include an Operation and Maintenance (O&M) Manual developed by the engineer of record for each structure type included in a maintenance agreement. Multiple structure types may be included in one maintenance agreement and O&M Manual. The responsible entity shall routinely inspect and provide appropriate long-term maintenance for all structures associated with the permanent stormwater quality control measures as described in the O&M Manual.

Permanent stormwater quality control measure maintenance and access agreement templates are provided in the El Paso County Engineering

Criteria Manual (ECM) Revision 7, dated July 2, 2019, Appendix G and are hereby incorporated by reference for use in the Town. All references to "County," and "Board of Commissioners," shall correspond to "Town of Palmer Lake," and "Town Board of Trustees," respectively.

8. Title 16, Chapter 16.28, Section 16.28.030, of the Palmer Lake Municipal Code is amended by amending subsection 16.28.030(E), by adding the underlined language and striking the strikethrough language as indicated below, to read in its entirety as follows:

- E. A drainage plan, prepared by a registered professional engineer based on the standards required in Chapter 17.50 of this Code ~~based on a twenty-five year storm. The drainage plan shall include, based on the finished grades and levels of development, all necessary present and future culverts and other drainage structures and storm sewers, by size, designed to accommodate the runoff from the subdivision. Surrounding land uses shall be taken into consideration as well as all basins which are occupied in whole, or in part, by the subdivision.~~ Cost estimates for all drainage structures and stormwater quality improvements shall be provided;

9. Title 16, Chapter 16.56, Section 16.56.020 of the Palmer Lake Municipal Code is amended by adding the underlined language as indicated below, to read in its entirety as follows:

Where a subdivision is traversed by a water course, drainage way, channel, or stream; or the subdivision includes permanent stormwater quality control measure(s) there shall be provided a storm water easement or drainage right of-way of such width as will be adequate for both waterflow and maintenance operations.

10. Title 16 of the Palmer Lake Municipal Code is amended by amending Chapter 16.60, Section 16.60.03, by adding a new subsection, subsection "M", with such new subsection 16.60.030(M) to read in its entirety as follows:

- M. Permanent Stormwater Quality Control Measures: All applicable development sites shall have operational permanent stormwater quality control measures at the completion of the site. The developer shall install and ensure mechanisms are in place to ensure the long-term operation and maintenance of all permanent stormwater quality control measures determined to be necessary in the drainage plan required in Chapter 17.50 of this code.



11. Title 16 of the Palmer Lake Municipal Code is amended by amending Chapter 16.64 by adding a new section, section 16.64.020, with such new section to read in its entirety as follows:

16.64.020. Discharges to the Municipal Separate Storm Sewer System (MS4).

All requests for a variance from control measure requirements of the Town's MS4 permit, shall be applied in a manner that complies with the terms and conditions of the MS4 permit. The burden of demonstrating compliance with the MS4 permit when requesting a variance is the responsibility of the person making such request. The Planning Commission shall make the final determination to approve or deny all variance requests

12. Title 16 of the Palmer Lake Municipal Code is amended by amending Chapter 16.80 by repealing Section 16.80.030 in its entirety.

13. Title 17 of the Palmer Lake Municipal Code is amended by amending Chapter 17.50, Section 17.50.010, by adding the underlined language as indicated and to read in its entirety as follows:

17.50.010 Title. This Ordinance shall be known as the Hillside Overlay District and Stormwater Quality Control Ordinance of the Town of Palmer Lake.

14. Title 17 of the Palmer Lake Municipal Code is amended by amending Chapter 17.50, Section 17.50.020, by adding a subsection "E", with such subsection "E" reading in its entirety as follows:

(E) Implementing the control measure requirements of, and ensuring compliance with the Town's Municipal Separate Storm Sewer System (MS4) permit to protect water quality.

15. Title 17 of the Palmer Lake Municipal Code is amended by amending Chapter 17.50, Section 17.50.030, by adding the underlined language and striking the strikethrough language as indicated below, to read in its entirety as follows:

- (A) AVERAGE SLOPE. The "average slope" shall be computed as follows:  $S = 100 IL/A$  I = Contour interval in feet L = The summation of the length of all contour lies, in feet. A = Area in square feet of the parcel considered
- (B) PERCENT SLOPE the ratio of the vertical rise (or elevation differential) divided by the horizontal run (or distance) x 100%.
- (C) CUT means removal of existing soil without replacing or backfilling the removed earth.

- (D) FILL means the adding of soil to the surface without later removal.
- (E) Municipal Separate Storm Sewer System (MS4): The system of conveyances owned or operated by the Town designed or used for collecting or conveying stormwater, including but not limited to roads with drainage systems, inlets, catch basins, curbs, gutters, pipes, man-made channels, ditches, detention and water quality basins, or storm drains.
- (F) Common Development Improvement: Improvements under the ownership or control and maintained by a private or public entity other than the Town, including greenways, drainage systems and permanent stormwater management facilities.
- (G) Best Management Practices: Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "state surface waters." BMPs also include treatment requirements for and operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. The term BMP is used interchangeably with the term control measure, and can include other methods such as the installation, operation, and maintenance of structural controls and treatment devices.
- (H) Applicable Construction Activities: Construction activities that result in a land disturbance of greater than or equal to one acre or that is less than one acre, but is part of a larger common plan of development or sale that would disturb, or has disturbed since March 2, 2001, one acre or more, unless excluded in 1) or 2) below or the disturbed areas have been finally stabilized.
1. Construction activities with an R-Factor Waiver approved by the Water Quality Control Division are excluded from the definition of applicable construction activities.
  2. Facilities associated with oil and gas exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activity. These facilities might still be covered under the state general permit for Stormwater Discharges Associated with Construction Activity.

- (I) Construction activity: Refers to ground surface disturbing and associated activities (land disturbance), which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas. Construction does not include routine maintenance to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. Activities to conduct repairs that are not part of regular maintenance or for replacement are construction activities and are not routine maintenance. Repaving activities where underlying and/or surrounding soil is cleared, graded, or excavated as part of the repaving operation are considered construction activities unless they are an excluded site described in section 16.12.20 of this code. Construction activity is from initial ground breaking to final stabilization regardless of ownership of the construction activities.
- (J) Control Measure: Any best management practice or other method used to prevent or reduce the discharge of pollutants to waters of the state. Control measures include but are not limited to best management practices. Control measures can include other methods such as the installation, operation, and maintenance of structural controls and treatment devices. The following requirements apply to all control measures:
1. Good Engineering, Hydrologic and Pollution Control Practices: Control measures must be selected, designed, installed, implemented, and maintained in accordance with good engineering, hydrologic, and pollution control practices as defined in this section. "Pollution" is man-made or man-induced, or natural alteration of the physical, chemical, biological, and radiological integrity of water.
  2. Maintenance: Control measures must be maintained in effective operating condition.
  3. Inadequate Control Measures: Any control measure shall be considered an "inadequate control measure" if it is not designed, implemented, or operating in accordance with the requirements of the permit, including the specific requirements in each program area in Part I.E or requirements for specific permittees in Part III.
  4. Control Measure Requiring Routine Maintenance: Any control measure shall be considered a "control measure requiring routine maintenance" if it is still operating in accordance with its design and the requirements of

this permit, but requires maintenance to prevent associated potential for failure during a runoff event.

- (K) Land Disturbing Activity: Any activity that results in a change in the existing land surface (both vegetative and non-vegetative). Land disturbing activities include, but are not limited to clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity.
- (L) Final Stabilization: is the condition reached when all ground surface disturbing activities at the site have been completed, and for all areas of ground surface disturbing activities a uniform vegetative cover has been established with an individual plant density of at least 70 percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed.
- (M) Waters of the State (state waters): are any and all surface and subsurface waters which are contained in or flow in or through this state, but not including waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed. This definition can include water courses that are usually dry. For the purposes of this Chapter, waters of the state do not include subsurface waters.
- (N) Good Engineering, Hydrologic and Pollution Control Practices: methods, procedures, and practices that:
1. Are based on basic scientific fact(s).
  2. Reflect best industry practices and standards.
  3. Are appropriate for the conditions and pollutant sources.
  4. Provide appropriate solutions to meet the associated permit requirements, including practice based and numeric effluent limits.
- (O) Pollution: man-made or man-induced, or natural alteration of the physical, chemical, biological, and radiological integrity of water. See 5 CCR 1002-61.2(77).

~~(E) DISTURBED AREAS AND ALLOWABLE DISTURBANCE means areas of the land that have the existing natural surface permanently altered in any way, whether by filling (earth added), cut (earth taken away) or scraped, or otherwise permanently disturbed. Permanently disturbed areas include, but are not limited to, driveways, parking areas, the actual building site including the entire plan view of the proposed structure including all areas lying beneath the roof lines and any projections of the building beyond the foundations and decks, and other similar areas.~~

~~(F) PROJECT: The following shall be referred to as a "project". All land development, building construction, additions, including the alteration by adding of earth to or the removal of earth from any parcel, lot or site within the Town. All projects shall require a special HILLSIDE LAND USE PERMIT prior to beginning any work. All plans and supporting documentation shall be prepared by a Colorado Registered Professional Engineer or Registered Professional Architect except as provided otherwise herein.~~

16. Title 17 of the Palmer Lake Municipal Code is amended by amending Chapter 17.50, Section 17.50.060, by adding the underlined language and striking the strikethrough language as indicated below, Section 17.50.060 to read in its entirety as follows:

17.50.060 Development Standards.

(A) GRADING:

- (1) No earthwork cut shall have finished slope steeper than a ratio of 2 horizontal to 1 vertical.
- (2) No earthwork fill shall have a finished slope steeper than a ratio of 3 horizontal to 1 vertical.
- (3) The tops of fills and the bottoms of cuts shall be separated by at least 5 (five) feet of horizontal distance.
- (4) The bottoms of fills and the tops of cuts shall be separated by at least 5 (five) feet of horizontal distance.
- (5) No cut or fill shall at any point be closer to any property line than 5 (five) feet except as provided herein relative to driveway placement.
- (6) No cut or fill shall exceed 8 (eight) feet in height measured vertically at the maximum distance between the original existing natural grade and the finished grade except for basements, footings, retaining

walls, and utility trenches, provided that the finished grade is that required by Town rules and regulations or the Regional Building Authority.

- (7) That men and equipment be provided at the site during storms to prevent incomplete work from endangering life or property.
- (8) Adequate protection shall be required of excavation or fills which would be hazardous without such protection.
- (9) All organic matter and top soil shall be stripped prior to placement of any fill material exceeding 1 foot.
- (10) All grading shall comply with items 1 through 9 above and with the El Paso County Engineering Criteria Manual Chapter 3 and Appendix E.

(B) DRAINAGE:

- (1) Initial site grading shall be done in such a manner that the drainage across the property, either historic or the approved direction is maintained. Drainage ways or channels shall be kept operational during the construction process. If the construction process causes any of the drainage ways or roadside ditches to fill with sediment, the owner/builder shall immediately reconstruct the ditches to the preconstruction contours and shall clean out and open any culvert which may have been plugged.
- (2) The surface runoff water shall be controlled by piping, swales, and ditches capable of handling the designs flows.
- (3) It must be demonstrated that excess outside flows onto the lot will not impair the suitability of the proposed construction and that the new flow patterns will not be directed onto adjacent properties in a manner that will impair those properties.
- (4) Flows from paved areas or roofs shall be directed to ~~existing roadway ditches or onto existing drainage easements.~~ In the event the only alternative is to discharge directly into the Town MS4, permanent downstream drainage improvements of the receiving structure(s) shall be required for sediment and erosion control. If the location of the proposed project blocks a natural drainageway, the

developer shall redirect the flows in accordance with these regulations.

- (5) All culverts whether on-site or on Town right of way shall be sized in accordance with the drainage requirements and shall be approved for location, type, and size by the Town Engineer or his representative. Unless otherwise approved, culverts shall be a minimum of 18 inches in diameter, shall be minimum of 20 feet in length, and shall be corrugated metal or reinforced concrete pipe and shall extend upstream and downstream a minimum of 2 ½ feet from the edges of the driveway and shall be placed so as not to damage the roadway and the side ditches. Cross pan driveways are generally not acceptable.
- (6) The owner shall maintain the culvert below the driveway in such a manner as to allow the passage of flows without impairment. Should the owner fail to maintain the culvert, the town will perform the necessary maintenance of the culvert and shall charge the owner for the labor and any necessary materials.
- (7) Efforts shall be made to abate the dust caused by the development of sites.
- (8) During construction of the project, it is mandatory that measures be taken to minimize any adverse effects on the neighboring properties.
- (9) Ingress and egress to the project shall be only by way of the approved driveway, etc.
- (10) All applicable development sites shall submit a Master Development Drainage Report consistent with the criteria presented in Chapter 4 of the Drainage Criteria Manual Volume 1.

(C) LANDSCAPING:

- (1) During construction and at all times thereafter, particularly prior to the establishment of vegetation, all disturbed areas not covered by structures, driveway or other hard surfaces shall be protected from erosion.
- (2) All disturbed areas shall be vegetated with erosion control grasses, shrubs and/or trees.

- (3) All required landscaping including revegetation and retaining walls shall be constructed and/or installed prior to occupancy of the premises except as provided in Section 17.50.100(c) below.

All plans and supporting documentation shall be prepared by a Colorado Registered Professional Engineer, except as provided otherwise herein. Control measures shall be implemented prior to the start of construction activity, must control potential pollutants during each phase of construction and must be maintained through final stabilization. Appropriate structural control measures must be maintained in operational condition. For the purposes of selection, designing, installation, implementation and maintenance of control measures the following criteria are hereby incorporated by reference:

- (1) The El Paso County Engineering Criteria Manual (ECM), revision 7, July 2, 2019:
- (2) Chapter 3 – Drainage: in its entirety;
- (3) Appendix E – Checklist and Permits: Grading and Erosion Control Plan Checklist and Standard Notes; Stormwater Management Plan Checklist.
- (4) The following sections of Appendix I:
  - a. I.2 Overview
  - b. I.3 Adoption of Drainage Criteria Manuals by El Paso County
  - c. I.4.1.b Permit Holder Responsibilities
  - d. I.4.1.c Transfer of Property and Permit Holder Responsibilities
  - e. I.5 El Paso County Construction Site Inspections
  - f. I.7 Post Construction Stormwater Management
  - g. I.9. Supplemental Information: Urban Drainage Flood Control District's (renamed: Mile High Flood District) Hydrology and Hydraulics Design Tools

All references to "El Paso County," "County," and "un-incorporated areas of El Paso County," etc., shall correspond to "Town of Palmer Lake." All references to "ESQCP" shall correspond to "Land Use Permit."



(D) STORMWATER MANAGEMENT DURING CONSTRUCTION:

(1) Applicability: all applicable construction activities shall submit with the Land Use Permit Application a Storm Water Management Plan (SWMP) consistent with the content requirements identified in Appendix E of the El Paso County Engineering Criteria Manual. The SWMP must locate and identify all structural and non-structural control measures for the applicable construction activities. The SWMP must contain installation and implementation specifications for all structural control measures. A narrative description of non-structural control measures must also be included in the SWMP.

(2) Stormwater Management Plan. The purpose of a SWMP is to identify all possible pollutant sources from an applicable construction activity that may contribute to stormwater pollution, and to address the selection, installation, implementation and maintenance of control measures (also known as Best Management Practices (BMPs)) that, when implemented, will prevent pollution or degradation of state waters.

Control measures identified in the SWMP must be appropriate for the specific construction activity, the pollutant sources present, and the phase of construction. There is a wide variety of structural and non-structural control measures that can be used.

The SWMP shall be submitted as a stand-alone document separate from the engineering plan set submitted for review and approval. El Paso County uses a checklist to perform a completeness review of the initially submitted SWMP. Unlike the Grading and Erosion Control Plan, the SWMP is intended to be a dynamic document and must be revised as construction proceeds to accurately reflect the current conditions and control measures in use at the site. Therefore El Paso County does not "approve" the SWMP. A copy of the SWMP review checklist can be found in Appendix E.

During construction the SWMP is the responsibility of the designated Qualified Stormwater Manager or Certified Erosion Control Inspector and shall be located on site at all times during construction and shall be kept up to date with work progress and changes in the field.

(3) Control Measure Requirement: for all applicable construction activity control measures must be selected, designed, installed, implemented, and maintained in accordance with good engineering, hydrologic, and pollution control practices. Control measures must be selected, designed, installed, implemented, and maintained to provide control of all potential pollutants, such as but not limited to sediment, construction site waste, trash, discarded

building materials, concrete truck washout, chemicals, sanitary waste, and contaminated soils in discharges to the MS4. At a minimum pollutant sources associated with the following activities (if part of the applicable construction activity) must be addressed:

- a) Land disturbance and storage of soils
- b) Vehicle tracking
- c) Loading and unloading operations
- d) Outdoor storage of construction site materials, building materials, fertilizers, and chemicals
- e) Bulk storage of materials
- f) Vehicle and equipment maintenance and fueling
- g) Significant dust or particulate generating processes
- h) Routine maintenance activities involving fertilizers, pesticides, detergents, fuels, solvents, and oils
- i) Concrete truck/equipment washing, including the concrete truck chute and associated fixtures and equipment
- j) Dedicated asphalt and concrete batch plants.
- k) Other areas or operations where spills can occur.
- l) Other non-stormwater discharges including construction dewatering not covered under the Construction Dewatering Discharges general permit and wash water that may contribute pollutants to the MS4.

(4) Inspections: during construction, all applicable construction activity shall be inspected according to the inspection types, frequencies and scopes identified in the El Paso County Engineering Criteria Manual Appendix I, section I.5. The purpose of inspections conducted by Town inspectors is to ensure compliance with the control measure requirements in this Ordinance and Title 16.

(E) POST CONSTRUCTION STORMWATER MANAGEMENT:

All applicable development sites, as defined in Title 16 of this Code, shall implement post construction (permanent) storm water quality control measures consistent with the requirements of this Chapter and Title 16 of this Code. For the purposes of selection and design of post construction stormwater control measure, the criteria presented in Appendix I, section I.7 of the ECM shall be used. Control measures for new development and redevelopment shall meet one of the minimum base design standards listed in Appendix I, section I.7.C. of the ECM.

17. Title 17 of the Palmer Lake Municipal Code is amended by amending Chapter 17.50, Section 17.50.080, by adding the underlined language and striking the strikethrough language as indicated below, Section 17.50.080 to read in its entirety as follows:

17.50.080 Grading and Erosion Control Plan. ~~A report shall be prepared by a registered professional engineer or registered architect licensed in Colorado showing the existing topography including tree cover, soil conditions, and revegetation and outlining how the proposed construction follows the Development Standards contained in this Ordinance.~~ A Grading and Erosion Control Plan shall be prepared by a Colorado registered professional engineer and shall be based on the criteria included in Chapter 3 of the El Paso County ECM and shall include the content identified in the Grading and Erosion Control Plan Checklist provided in Appendix E of the ECM. Any revisions to a Grading and Erosion Control Plan approved by the Town Engineer, which effect hydrology or hydraulics of any component of the approved plan, shall require review and approval of the proposed change(s) prior to implementation.

18. Title 17 of the Palmer Lake Municipal Code is amended by amending Chapter 17.50, Section 17.50.090, by repealing Section 17.50.090 in its entirety.

19. Title 17 of the Palmer Lake Municipal Code is amended by amending Chapter 17.50, Section 17.50.100, by adding the underlined language and striking the strikethrough language as indicated below, Section 17.50.100 to read in its entirety as follows:

17.50.100 Exceptions.

~~(A) If it can be proven that the actual allowable area of the proposed project that will be disturbed does not exceed 15.9% slope, requirements of this ordinance, except for § 17.50.060(e) above, shall not apply. Proof shall consist of certification by one of the Registered Professionals identified above or the Town zoning officer.~~

~~(B)~~ (A) A driveway and its related cut or fill slopes necessary for the construction of the driveway may extend to the front or closest street property line provided that it meets engineering design requirements and is designed by a registered engineer.

~~(C)~~ (B) A temporary Occupancy Permit may be issued by the Zoning Officer if in his opinion the season will not permit construction/installation of retaining barriers or revegetation required. Such Temporary Occupancy Permit shall run for 6 (six) months or thru 1 (one) full growing season.

~~(D)~~ (C) The provisions relating to the dedication of land, payment of fees or both (as described in the Town ordinances) shall be applicable to land affected by this Ordinance.

~~(E)~~ In computing the "average slope" for any parcel placed in the District, any "average slope" not meeting the requirements of this Ordinance may be modified by elimination from the calculation of "average slope" that portion of the parcel placed by the lot owner in a Conservation Easement in favor of the Town as contemplated by Title 38, Article 30.5 of the Colorado Revised Statutes, provided that the Conservation Easement is accepted by the Town. Said easement remains the sole responsibility of the property owner.

~~(F)~~ No development or occupancy will be allowed unless the site plan, grading and erosion control plan and drainage plan which are approved by the Town or Zoning Officer are followed by the applicant. No construction shall commence until the Land Use Permit and associated required plans are reviewed and approved by the Town Engineer. A "notice to proceed," will be provided in writing by the Planning Commission upon successful completion of an Initial Inspection.

~~(G)~~ Excavation for purposes of routine maintenance, provided that the ground is returned to original grade and revegetated condition.

~~(H)~~ Placement of topsoil for revegetation or landscaping purposes are exempt from the requirements of this ordinance. Placement of backfill for retaining walls not constructed with the primary project structure are exempt from the requirements of this ordinance.

20. Title 17 of the Palmer Lake Municipal Code is amended by amending Chapter 17.50, Section 17.50.110, by adding the underlined language and striking the strikethrough language as indicated below, Section 17.50.110 to read in its entirety as follows:

#### 17.50.110 Submittal Requirements.

(A) All project plans shall be submitted to the ~~zoning officer~~ Planning Commission and conform to the requirements of this ordinance and shall show the following:

- (1) Name, address, legal description, and street address of applicant, and professional designer(s).
- (2) Plans shall be drawn at a scale of at least 1" = 20' (one inch equals twenty feet) or scale approved prior to submittal by the Zoning Officer.
- (3) SHEET size: Minimum: 8½ by 11 inches. Project plans and plan

elements may be shown on one or more sheets. Maximum size: 36" x 48".

- (4) LOT SIZE: Show square footage of property if less than 1 acre. If more than 1 acre, show acreage to 2 decimal places.
  - (5) SETBACK DIMENSIONS clearly show the distance from the proposed structure to the property lines. (Measurements to be made perpendicular to the lot lines).
  - (6) STRUCTURE location.
  - (7) DRIVEWAY location, width, grade and surfacing material.
  - (8) CULVERT(S) SIZE and location.
  - (9) SEWER LINE: Location of main and house connection.
  - (10) WATER LINE: Location of main and house connection.
  - (11) EASEMENTS: Show and identify all easements affecting the property.
  - (12) GRADING: Show all contours at a minimum interval of 2 (two) feet plus all other necessary information in accordance with the requirements of this ordinance.
  - (13) DRAINAGE: Show necessary information in accordance with the requirements of this and other ordinances.
  - (14) PARKING: Show minimum required by ordinance and actual quantity shown on plan.
  - (15) Percentage of lot coverage not permanently disturbed.
- (B) At a minimum the following documents shall be submitted for applicable construction activity and applicable development sites.
- (1) Applicable Construction Activity: all applicable construction activity occurring within the Town of Palmer Lake jurisdiction shall obtain a Land Use Permit prior to the start of construction. The following shall be submitted for review and approval by the Planning Commission prior to the start of construction.

- a) Completed Land Use Permit Application
- b) Grading and Erosion Control Plan
- c) Stormwater Management Plan

(2) Applicable Development Site: all applicable development sites within the Town of Palmer Lake shall obtain a Land Use Permit prior to the start of construction. In addition to the submittal requirements in Title 16 of this Code, the following shall be submitted:

- a) Completed Land Use Permit Application.
- b) Grading and Erosion Control Plan.
- c) Master Development Drainage Plan.
- d) Stormwater Management Plan.
- e) Design details for all structural post construction stormwater management control measures
- f) A narrative reference for all non-structural control measures.
- g) Documentation of operation and maintenance procedures to ensure the long-term observation, maintenance and operation of permanent control measures.
- h) Documentation of easements or other legal means for Town access of the control measure site for operation, maintenance and inspection of each control measure.

21. Title 17 of the Palmer Lake Municipal Code is amended by amending Chapter 17.50, Section 17.50.120, by adding the underlined language and striking the strikethrough language as indicated below, Section 17.50.120 to read in its entirety as follows:

No permit shall be issued for the construction, erection or moving of any building or structure in ~~this District~~ the Town unless the provisions of this Code are followed. It is a violation of this Ordinance not to follow the site plan, grading and erosion control plan, storm water management plan and drainage plan as approved by the Town. ~~A stop order, cease and desist order or such other remedy as may be deemed appropriate by the Town may be utilized during construction to assure compliance with the Ordinance.~~ The Town of Palmer Lake is required by its MS4 permit to have an enforcement process and sanctions designed to minimize the occurrence of violations and obtain compliance from chronic and recalcitrant violators of stormwater control measure requirements. Escalation of enforcement must occur as necessary based upon the severity of the violation and/or the recalcitrance of the violator to ensure that violations of a similar nature are enforced consistently. As a general outline, the following process will be followed up to the point where an adequate response to non-compliance is obtained:

Documented Inspection > Verbal Warning of non-compliance (documented in Inspection Report) > Letter of Noncompliance > Stop Work Order > Revocation of Permit > Performance of Remedial Work > Court Order.

The Town retains its right, however, to exercise its discretion in applying enforcement mechanisms as circumstances warrant. Any individual or person acting as a subcontractor or as an agent for a subdivider who is found guilty of violating any of the provisions of this title is guilty of a misdemeanor, and shall upon conviction be punished according to Chapter 1.16 of this Code. These penalties shall be in addition to any others that may be imposed.

22. All Titles, Chapters, Sections, and/or Subsections of the Palmer Lake Municipal Code not specifically amended as referenced above remain in full force and effect.

23. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

24. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

**INTRODUCED, PASSED AND ADOPTED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 11<sup>TH</sup> DAY OF JUNE, 2020.**

ATTEST:

  
\_\_\_\_\_  
Bob Radosevich, Town Administrator

TOWN OF PALMER LAKE, COLORADO

BY:

  
\_\_\_\_\_  
John Cressman, Mayor